

EXHIBIT “B”

Part 5 of 7

DEPOSITION OF JOSEPH J. HOCHREITTER, JR., 2/27/07

1 Q. If you look in the text of
2 your report under Section 3.1.2, the
3 second paragraph, you reference what
4 I believe is the basis for the
5 information that's contained in Table
6 1a of your report.

7 In fact, in the last line
8 you say, "The information contained
9 in the American Cyanamid summary is
10 reproduced on the first page of Table
11 1a." And I want to make sure that I
12 know where the documents are that you
13 reproduced for Table 1a.

14 And I guess we will have to
15 mark this as an exhibit.

16 This is actually the
17 attachment to the 1993 response -- to
18 American Cyanamid's 1993 response to
19 the EPA 104(e) information request,
20 and it's also an exhibit to Bailey's
21 deposition in the Kramer landfill
22 case. So let's mark that as the next
23 exhibit, Exhibit 8.

24 (Hochreiter Exhibit 8 was

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1 marked for identification.)

2 BY MS. TROJECKI:

3 Q. Is this the source of the
4 information that's contained in Table
5 1a of your report?

6 A. I believe it is. I believe
7 it is. Let me just make certain, but
8 I recall this. And you say this was
9 an attachment to --

10 Q. The 1993 response?

11 A. Okay, yes. I'm not used to
12 seeing it on its own, but yes, okay.

13 Q. So just to be clear, you
14 basically went -- tell me how you got
15 the information from that attachment
16 and put it on Table 1a.

17 A. I mean, the mechanics are
18 pretty simple. We read this
19 document, we -- I took this
20 information and literally transcribed
21 it into a tabular format, it was
22 easier to read, provided reference or
23 Bates numbers for every individual
24 entry, and I think on 1a, for at



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1 least the first page, the first page
2 of three for Table 1a appears to come
3 from Exhibit 8.

4 I mean, it's just a simple
5 transcription.

6 Q. Okay. And for the second
7 page of Table 1a, I want to show you
8 some documents and see if that's the
9 source of that information for the
10 second page of Table 1a.

11 And it appears that you
12 broke up the American Cyanamid waste
13 into summary of waste shipments by
14 Jonas, and you call that American
15 Cyanamid records, and then summary of
16 Bound Brook wastes hauled by Jonas,
17 and you called that Jonas records; is
18 that correct?

19 A. That's correct.

20 Q. So there are actually two
21 sets of records that you worked off
22 of to calculate the quantity of
23 American Cyanamid waste. Correct?

24 A. We looked at both sets,



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1 yes.

2 Q. And the two sets are
3 exclusive?

4 A. Oh, I'm certain there is
5 probably overlap, but we have no way
6 of discerning that.

7 Q. Okay. What I meant by that
8 is that you either -- when you are
9 determining the waste quantity in
10 your report, you decided to go with
11 one list or the other, you didn't add
12 the waste in Table 1a --

13 A. In fact, what I think we
14 ended up doing -- I'm sorry, I spoke
15 over you. I will get that
16 eventually.

17 I believe what we did, and
18 we can look at the language
19 specifically, for example, on Page
20 3-5, "As shown on Table --" and this
21 is the third full paragraph -- "As
22 shown on Table 1a, the American
23 Cyanamid 1993 information for 1976 to
24 '78, when summed, results in a total



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1 of 49 drums of unknown weight plus
2 54,780 gallons plus 4,906,040 pounds
3 of waste substances generated for
4 offsite shipment."

5 And then we mentioned what
6 the Jonas ledger came up with. The
7 total gallons of material shipped in
8 1977 alone, according to Jonas'
9 ledger, was 4 million and some-odd
10 thousand gallons. The difference
11 between the Cyanamid and Jonas
12 information indicates that the
13 Cyanamid information may be
14 incomplete.

15 What we did was we compared
16 what Jonas had reported, compared it
17 to the information in the -- Page 1
18 of Table 1a and we saw that although
19 there may be some overlap, there's
20 also some reinforcement.

21 Q. And so do you have an
22 opinion as to which list is more
23 accurate?

24 A. We have no way of saying



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1 which list is more accurate. There
2 are two different lists.

3 Q. How about which one is more
4 complete?

5 A. I don't even say that. I'm
6 going to take the opinion that we
7 stated in the report, which is we
8 accept everything at face value, and
9 I'm not going to attempt to parse out
10 which one is better than the other.
11 It's really beyond my ability to do
12 that.

13 Q. So in the Conclusion
14 section of your report for American
15 Cyanamid on Page 5-1, you state that
16 actual and incompletely documented
17 wastes generated total 10,546,745
18 gallons. That's based on the Jonas
19 records, correct?

20 A. That is correct.

21 Q. But it could just as easily
22 be based on the American Cyanamid
23 records, is that what your opinion
24 is? I mean, you could just as easily



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1 use the American Cyanamid number from
2 their records?

3 A. We could. We would have
4 to, of course, do the appropriate
5 extrapolations for both.

6 Q. And did you do that in this
7 report? I believe you did it.

8 A. I believe we did.

9 Q. So do you have an opinion
10 as to which one is the more
11 appropriate number?

12 MS. WRIGHT: Objection.

13 THE WITNESS: We tried to
14 report what we found, and we did not
15 ascribe a value judgment to one or
16 the other.

17 BY MS. TROJECKI:

18 Q. I just want to briefly walk
19 through these documents, because I
20 have a question on one of them. If
21 we could go through on Page 3-5 of
22 your report, the Jonas records and
23 indicate to make sure that I have the
24 right sources of the information.



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1 Page 3-5 under the item
2 that's marked No. 1 is a 1972
3 application?

4 A. Yes.

5 Q. I'm going to show you
6 what's been marked as Jonas Exhibit
7 20 in a deposition for a different
8 case and ask you if that's the 1972
9 application that you are referring to
10 on Page 3-5 of your report.

11 And I actually highlighted
12 in there the numbers that I believe
13 you took off of that for your Table
14 1b.

15 A. Okay.

16 Q. Can you just --

17 A. Just give me a second, if
18 you would. I just want to make sure
19 that I'm looking at what I think I'm
20 looking at.

21 MR. PETTIT: I just want to
22 make an objection. In
23 Mr. Hochreiter's Table 6-1, it's
24 clear that this '72 application is



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1 Exhibit Jonas Exhibit 20, so I don't
2 need see the need to ask the
3 question, other than to waste time.

4 MS. TROJECKI: Okay.

5 THE WITNESS: Do you want
6 to withdraw the question or do you
7 want me to answer it?

8 MS. TROJECKI: Well, I
9 think we cleared it up. I didn't
10 make that correlation.

11 BY MS. TROJECKI:

12 Q. And the Jonas operational
13 statement covering activity for the
14 year 1994 --

15 A. '74.

16 Q. '74.

17 A. Are you going to show me
18 something?

19 Q. Yes. And I will show you
20 what's been marked as Jonas 15 at an
21 earlier deposition for Jonas, which I
22 believe is the 1974 Jonas operational
23 statement that you referred to,
24 although you don't identify it in



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1 your report as Exhibit Jonas 15.

2 And you will see on the
3 page that's marked BSAI077551,
4 there's a reference to 89,682 gallons
5 from the Bound Brook facility.

6 A. Yes.

7 Q. And is this the source of
8 the information on the table on Page
9 3-5 of your report where 89,000
10 gallons of bulk liquid was hauled
11 from the Bound Brook facility?

12 A. It is.

13 Q. And, then, also on the same
14 document, on Page BSAI077552, there
15 are five references to waste hauled
16 from the Bound Brook facility, and I
17 will represent to you that they add
18 up to the 1,004,000 gallons of
19 hazardous waste. Is that the source
20 of the information on Page 3-5 of
21 your report?

22 A. Yes, it is. Do you want
23 this back?

24 Q. Yes.



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1 A. You want both of these,
2 because these haven't been marked for
3 this case. Right.

4 Q. And, finally, I'm going to
5 show you Jonas 12, which I believe is
6 the source of the information for the
7 Jonas operational statement covering
8 activities during the year 1975 on
9 your report on Page 3-5.

10 If you turn to the fifth
11 page of Jonas 12 -- I'm sorry, the
12 fourth page -- there's a reference to
13 134,500 gallons in the Bound Brook
14 facility?

15 A. 134,500 gallons, yes.

16 Q. And then two pages later
17 there's a reference to 438,000
18 gallons?

19 A. Right.

20 Q. And 85. So I guess my
21 question is, is this source -- is
22 this the document, Jonas 12, that you
23 got your information for No. 3 on
24 Page 3-5?



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1 A. Yes, I believe it is. I'm
2 sorry.

3 Q. That's okay.

4 A. I believe it is. Where is
5 the illegible quantity, that's what I
6 want to --

7 Q. It's in there.

8 A. Yes, okay.

9 Q. So, in any event, do you
10 have an opinion as to whether these
11 documents accurately reflect the
12 quantity of waste that was taken from
13 the Bound Brook facility?

14 A. As I have stated several
15 times before, we went into this
16 analysis doing the only thing that we
17 thought was scientifically credible,
18 and that was taking the reports by
19 the waste haulers and the companies
20 at face value.

21 And I can't ascribe a
22 qualitative assessment, is this one
23 better than the other, is this one
24 accurate, is this one not accurate.



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1 I'm just not able to do that because
2 I am not given the backup information
3 to be able to make that kind of
4 assessment.

5 Q. Have you seen a -- I just
6 note that you used the Jonas
7 applications for 1972, for 1974 data,
8 for 1975 data. Have you seen a Jonas
9 operational statement covering
10 activities during the year 1976?

11 A. I don't recall that we had
12 that, no. Is it possible that we
13 did, yes, but I don't remember it.

14 And I'm looking at the list
15 of documents that we referenced.
16 There's Jonas three-ring binder
17 ledger pages, 1976 to '79, I don't
18 know if that would be a part of or a
19 larger set of what you are
20 referencing or not. Actually, that's
21 the next item on the list.

22 Q. Where is that?

23 A. In my expert report, number
24 four.



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1 Q. The handwritten series of
2 documents?

3 A. Yes.

4 Q. Right. Okay. So I'm going
5 to show you what's been marked as
6 Jonas 11 in a previous litigation.
7 And this, I believe, is the Jonas
8 operational statement covering
9 activities during the year 1976.

10 And I guess my question is,
11 if I look through this document and
12 highlight the waste that was taken
13 from the Bound Brook facility and
14 represent to you that there's a
15 different amount here than the amount
16 that's in the series of handwritten
17 documents, would you have any opinion
18 as to which one is the more accurate
19 document, or how would you handle
20 that?

21 A. How I would handle it is I
22 would, first of all, try to determine
23 whether the handwritten document and
24 this were attempting to be the same



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1 thing, whether this was an attempt
2 at, you know, codifying what was done
3 in the handwritten ledger or not.

4 I notice right off the bat
5 that there are -- the first two
6 entries for Bound Brook in what you
7 have called Jonas 11 have illegible
8 cubic yards or gallons listed. So,
9 right off the bat, looking at this, I
10 would have a hard time saying that
11 this is a complete report, because
12 there's something there, but I can't
13 tell what it is.

14 Q. Well, looking at this
15 document, then, now, I assume that
16 you haven't -- did you testify that
17 you haven't seen this before?

18 A. I don't recall seeing this,
19 no.

20 Q. Now that you have it in
21 front of you, would this change
22 anything in your report?

23 A. Any new information that
24 would provide credible insight on



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1 waste quantities and types certainly
2 would be something that we would look
3 at, and I would consider in making
4 any possible revisions to the report.

5 Q. And would you consider this
6 to be a credible piece of evidence?

7 MR. PETTIT: Objection to
8 the form.

9 THE WITNESS: By the way,
10 before I answer that question, you
11 had indicated that this was a '76.

12 BY MS. TROJECKI:

13 Q. I believe that it covers
14 the period --

15 A. Because it says fiscal year
16 '78 at the top. So I don't know --
17 I'm not sure I know what this is.

18 Q. I believe that it covers
19 the period for 1976, if you look at
20 the second or third page of the
21 document, it says covering the period
22 for 1976.

23 A. Okay. Again, I think in
24 fairness -- if this is something new



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1 that we could use to evaluate --
2 first of all, I would want to make
3 certain that it isn't simply a
4 restatement of something that we have
5 already evaluated.

6 If it is truly a new, an
7 analysis of wastes that we otherwise
8 haven't somehow characterized, then,
9 yes, I would like to look at it in
10 more detail and evaluate whether we
11 could use it in refining our
12 estimates.

13 Q. Going back to your tables,
14 your Table 1a and Table 1b, explain
15 to me what you extrapolated with
16 respect to American Cyanamid?

17 A. Sure. If you look at the
18 top of Page 1b, the upper half of 1b,
19 what you have is essentially a
20 synopsis of what is explained in more
21 detail in 1a, and this is the form
22 that all of these tables follow.

23 And, in fact, the Roman
24 numeral tables in the text are very

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1 similar to the 1b tables, they are
2 just in the text so it's easier for
3 you to cross-reference, you don't
4 have to go into an appendix.

5 Q. Okay.

6 A. So we have subtotals for
7 1976 to 1978, the 4,906,000 pounds
8 and the 54,780 gallons and the
9 handful of tanker trucks and
10 55-gallon drums.

11 What we did then was we
12 made a determination that what we
13 were seeing for the years 1976 to
14 '78, which is about a
15 two-and-a-third-year time frame,
16 could be extrapolated to create an
17 estimated volume of waste and mass
18 generated for the entire eight-year
19 period of record.

20 So we multiplied that 4.9
21 million pounds, for one example, by
22 3.43 to come up with 60,800,000
23 pounds, and we did the same thing for
24 the other waste categories.



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1 In Jonas we took -- this is
2 another line of evidence. We took
3 the Table 1a summary for Jonas, which
4 is 10,546,745 gallons, and his
5 reports were, in this instance,
6 exclusively gallons, and we did the
7 same type of extrapolation to an
8 eight-year period.

9 We had four years of record
10 and we extrapolated it to an eight-
11 year total, and we made an assumption
12 for waste generation for each of
13 1970, '71, '72, and '73 was
14 equivalent to the 1974 volume.

15 Q. Does that include, also,
16 waste for 1969, is that included in
17 this?

18 A. It probably does, but I
19 think we accepted that this was a
20 four-year ex -- you know, a four-year
21 period of record and we extrapolated
22 it out, essentially, to the rounded
23 off eight-year period. 1969 is a
24 very small number of months.



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1 Q. So did you take the year
2 1978, then, for this American
3 Cyanamid as a full year?

4 A. I believe we did, yes.

5 Q. And you didn't do 1969,
6 correct?

7 A. We were doing
8 extrapolations for '70 through '73,
9 and for reasons that are escaping me
10 right at the moment, I don't know why
11 we didn't include two or three months
12 in 1969, but it wouldn't make a
13 significant difference in the
14 estimated and extrapolated gallons.

15 Q. Because the period of
16 interest is to 1977. Right?

17 A. That is correct.

18 Q. And you used data for four
19 years including 1978?

20 A. That is correct.

21 Q. So that's why you stuck
22 with the eight years and that's why
23 '69 is not included; is that right?

24 A. That's probably the logic



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1 that we used and you are refreshing
2 my recollection on that. I honestly
3 drew a blank on exactly why that was
4 the way we handled it. I don't
5 recall specifically.

6 I would have to get back
7 into the data itself to see exactly
8 why we picked the period of time we
9 did. 1978 is beyond the period of
10 time that allegedly Boarhead Farms
11 operated, yet it was indicative of a
12 good period of record where Cyanamid
13 produced information on their wastes.

14 I'm not sure that it was
15 because, 1970 to '78, still the
16 period of interest was '69 to '77.

17 Q. Is there any correlation
18 between the wastes that are listed on
19 Tables 1a and 1b of your expert
20 report and the wastes that are listed
21 in those three lists that we talked
22 about earlier with respect to
23 American Cyanamid?

24 A. I think the answer is yes.

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1 Q. Do the amounts that are
2 included in Tables 1a and 1b or the
3 wastes that are listed, excuse me, in
4 Tables 1a and 1b represent all the
5 wastes that are generated by American
6 Cyanamid?

7 A. Would you rephrase the
8 question, please?

9 Q. Sure. You have certain
10 waste types that are listed in Tables
11 1a and 1b of your report.

12 A. Uh-huh.

13 Q. Do these tables reference
14 all of the wastes that was generated
15 by American Cyanamid or what subset
16 of the waste is this?

17 A. Table 1a is our attempt at
18 summarizing all of the evidentiary
19 material using two different sources
20 for wastes generated by American
21 Cyanamid at Bound Brook.

22 Your question was, does
23 this represent all of the wastes that
24 were generated at Bound Brook, and



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1 again that goes to qualitative
2 judgment as to the accuracy and
3 completeness of the evidentiary
4 material that was provided to us. I
5 can't speak to that. I take it at
6 face value.

7 And so just to be clear,
8 I'm not saying whether this is good
9 data or bad data. It's the data we
10 were given. But Table 1a is a
11 compilation of everything that we
12 were provided. It includes those
13 handwritten ledgers and other
14 documents.

15 It brings it all up into a
16 contemporaneous list as best as we
17 can make it and then provides the
18 extrapolation, so -- and this is true
19 for every one of these companies, and
20 this is the generally -- where there
21 was a decent amount of evidentiary
22 material, this is how the tables were
23 constructed.

24 Q. So with respect to, say,

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1 I'm just picking a waste type that's
2 listed on Table 1a, waste spill
3 bottoms, did you review any records
4 that indicate the frequency that this
5 type of waste was generated at
6 American Cyanamid?

7 A. I don't believe so. I
8 don't recall specifically for waste
9 spill bottoms anything that we saw
10 that said there was a certain amount
11 of this material produced on a
12 regular frequency. There may have
13 been, but I just am not recalling it.

14 What we had was for that
15 particular period of time that amount
16 of pounds that were reported by
17 Cyanamid's own records that they
18 generated.

19 Q. Is that an analysis that
20 you did throughout this report where
21 you actually looked at -- in other
22 words, you have lots of waste types
23 listed for American Cyanamid.

24 Did you go through the



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1 analysis of saying this waste type
2 was generated by this process at this
3 frequency for any of the wastes by
4 any of the plaintiffs or settled
5 defendants?

6 A. We did not make any attempt
7 at doing an independent analysis of
8 what wastes should have been
9 generated by a particular
10 manufacturing process.

11 Our job was essentially to
12 take the evidentiary material that we
13 were provided and, where a particular
14 waste stream is identified either by
15 the company or the waste hauler that
16 handled the waste, we would tabulate
17 it and do our best not to double-
18 count within a category, to the
19 extent that the data would make that
20 clear.

21 Q. So, for instance, I see --
22 I guess my question is, then, how do
23 you know or how can you extrapolate
24 throughout the eight-year period and



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1 say that American Cyanamid produced
2 this much waste spill bottoms
3 throughout the whole time?

4 A. I can't say it with
5 absolute certainty. What I can do is
6 know for a period of time that
7 Cyanamid provided us records of what
8 they manufactured.

9 We have nothing in any of
10 the material that was provided to us
11 that indicates that the manufacturing
12 process changed, things, quantities
13 of wastes, increase went down,
14 ceased.

15 So for us to simply take --
16 well, there's two years of records,
17 and all of the waste that was
18 generated was during that two-year
19 period of time where they happened to
20 produce records is not appropriate,
21 in my view, in my professional
22 opinion.

23 So it's reasonable to do
24 that extrapolation where there isn't

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1 evidence to the contrary that says
2 what we produced in year X was the
3 same that they produced in year Y.

4 If we were able to get our
5 hands on information that said, Well,
6 you know, that process wasn't even in
7 existence in 1970, then, of course,
8 we would modify our extrapolation and
9 our process for evaluating how much
10 waste was generated.

11 But we weren't given that
12 information, and absent any reason
13 not to do the extrapolation, we felt
14 that was the prudent course.

15 Q. So what's the basis, then,
16 for your extrapolating in the case of
17 American Cyanamid? Is it just that
18 American Cyanamid was in operation
19 from 1969 to 1977?

20 A. They were in operation, and
21 it's our opinion that, given the
22 diverse waste streams that were being
23 generated during the limited periods
24 of record that we were afforded, it's

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1 reasonable to assume that something
2 similar to those quantities and types
3 of waste streams were produced during
4 the other years during the period of
5 interest.

6 Q. And what's the basis for
7 your saying that it's reasonable?

8 A. I don't know exactly how to
9 answer that. It's intuitively,
10 common sensically unreasonable to
11 think that just because in a given
12 year I say that I produced five
13 pounds of a particular waste, and
14 I've been manufacturing the same
15 material for 20, 30, 40 -- Bound
16 Brook has been in operation for a
17 long time -- it's unreasonable to me
18 to think that all of a sudden in
19 1977, they just started generating
20 that waste.

21 If they were making the
22 same things in 1976 that they were
23 making in '77, and it's our
24 understanding, given the limited



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1 information that we were provided,
2 that that's a reasonable assumption,
3 then the appropriate thing to do is
4 to say what we saw in '77, absent any
5 other information, is the same that
6 we would have seen in '76 had they
7 calculated and tallied the waste
8 material.

9 MS. FLAX: Counsel, you
10 asked the witness to look at a
11 document that was marked Jonas 11,
12 and I note that there are no BSAI
13 Bates stamp numbers on it. Has this
14 be produced to the repository?

15 MS. TROJECKI: I believe
16 all the Jonas depositions and
17 exhibits have been produced to the
18 repository.

19 MS. FLAX: Because the
20 other two exhibits have BSAI numbers
21 on them, so I would ask that this be
22 marked at this deposition so it's
23 part of the transcript.

24 MS. TROJECKI: Okay.



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1 MS. FLAX: Thank you.

2 (Hochreiter Exhibit 9 was
3 marked for identification.)

4 BY MS. TROJECKI:

5 Q. Will you turn to Page 3-6
6 of your report. And Section
7 3.2.1.1 you discuss the manufacturing
8 operations of National Rolling Mills,
9 correct?

10 A. That is correct. If you
11 give me one second.

12 Q. Sure.

13 A. I just want to do some
14 house cleaning here so I don't lose
15 things. Okay, go ahead.

16 Q. You cite as the basis for
17 your statements in Section 3.2.1.1 to
18 various deposition transcripts.

19 A. That is correct.

20 Q. Freda, Civitello, Winters,
21 and Chesky; is that correct?

22 A. That is correct.

23 Q. And just incidentally,
24 under the second paragraph under



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1 Section 3.2.1.1 that reads, "The
2 steel division produced," and you
3 have a reference to Chesky 1994,
4 2004. Is that a typo there?

5 A. I'm sorry, where are you?

6 Q. The first section in the
7 second paragraph under Section
8 3.2.1.1.

9 A. Okay.

10 Q. You reference Chesky 1994
11 and 2004.

12 A. I don't think there were
13 two for Chesky.

14 Q. I think there was just a
15 1994 interview, and I just want to
16 make sure that this is a typo.

17 A. I would have to go back and
18 confirm that, but I think you are
19 right.

20 Q. And looking on your list of
21 documents considered, you don't see
22 anything that you believe that that's
23 a reference to?

24 A. No. I think what may have



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1 happened is when I was doing the
2 compilation there's a Civitello
3 2004 -- they're both C's -- and that
4 probably came out that way.

5 Q. Other than reading the
6 deposition transcripts, did you do
7 any independent analysis regarding
8 the manufacturing operations at
9 National Rolling Mills?

10 A. No. We did not.

11 Q. And you also cite to those
12 same depositions for the basis for
13 your statements in Section 3.2.1.2.
14 Did you do any independent analysis
15 regarding the waste generated by
16 National Rolling Mills?

17 A. No. We did get some
18 insight from Ed Fackenthal on
19 National Rolling Mills' operations.
20 He sent us a synopsis which we read.

21 Q. And is that synopsis listed
22 in the documents considered in your
23 report?

24 A. I don't believe it is.



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1 Q. Was that produced to
2 defense counsel as part of your file?

3 A. Yes. Well, I produced it.

4 THE WITNESS: I'm assuming
5 that you did.

6 MS. WRIGHT: I think I did.

7 THE WITNESS: Okay.

8 BY MS. TROJECKI:

9 Q. Excuse me?

10 A. I produced it to counsel.
11 I'm just asking counsel if they
12 produced it to you.

13 Q. Okay. I'm going to see if
14 they did.

15 MS. TROJECKI: I want to
16 mark as Hochreiter 10 a document with
17 the title NRM Investment Statement to
18 Defendant's Expert.

19 (Hochreiter Exhibit 10 was
20 marked for identification.)

21 BY MS. TROJECKI:

22 Q. Is this the statement that
23 you are referring to that was
24 produced to you by Ed Fackenthal?



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1 A. Yes.

2 Q. So this Exhibit 10 was
3 prepared by Ed; is that correct?

4 A. That's my understanding.
5 Ed provided it to me.

6 Q. And you relied on this for
7 what part of your expert report?

8 A. I read it. I did not
9 incorporate any of the information
10 specifically in the report.

11 Q. So then we were speaking
12 about whether you did any independent
13 analysis regarding the waste
14 generation by National Rolling Mills,
15 and we said that you read the
16 deposition transcripts of the
17 individuals we identified, and you
18 also reviewed Hochreiter 10. Is
19 there anything else?

20 A. No.

21 Q. Under Section 3.2.2, in the
22 second paragraph, last sentence, you
23 state that "The estimation
24 extrapolation of spent acid wastes



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1 generated each year on employee
2 recollections becomes problematic."

3 A. I'm sorry, if you could
4 just tell me where you are.

5 Q. Section 3.2.2, second
6 paragraph, last sentence.

7 A. All right.

8 Q. Can you explain to me why
9 the estimation or extrapolation of
10 spent acid wastes becomes
11 problematic, and I believe that you
12 are saying, based on the former
13 employee recollection?

14 A. Let me read the paragraph
15 on that.

16 Q. Okay.

17 A. If you read the preceding
18 three sentences in that paragraph,
19 that really gives you a pretty good
20 tee-off for why we included giving so
21 many variables basing the estimation
22 extrapolation of spent acid wastes
23 generated each year on employee
24 recollections becomes problematic.



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1 The reasons are, first of
2 all, the estimated rates of wastes
3 generated are based completely on
4 former employee recollections;
5 there's no hard tangible record
6 documents that we could go to.

7 It's also apparent from the
8 employee interviews and deposition
9 testimonies that Jonas and DeRewal
10 were not the only waste hauling
11 contractors used by National Rolling
12 Mills during the period of interest.
13 That's the second issue.

14 The third issue, further
15 after 1972 the acid reclamation plant
16 was in operation and when it was
17 operating effectively its usage
18 reportedly significantly reduced the
19 generated volumes of spent acid and
20 ferric chloride sent off site for
21 disposal.

22 So we are dealing with a
23 body of evidentiary material that
24 isn't first generation, if you will.

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1 It's not somebody committing to the
2 written record that, yes, this is the
3 amount of waste I picked up, this is
4 the amount of waste I actually
5 generated.

6 Q. Okay. Can you turn to
7 Table 2a of your report?

8 A. Sure.

9 Q. And describe to me what the
10 basis of the information in Table 2a
11 is.

12 A. We have -- at the top we
13 have DeRewal invoices for spent
14 acid. We don't have quantities, we
15 just know that spent acid was
16 handled. We have twelve tanker wagon
17 loads of waste removed in 1976.
18 Again, the material quantity or
19 weight is unspecified. The comments
20 list the actual reference notes, but
21 it makes it very difficult to say
22 anything definitive about that waste.

23 The Jonas ledger in 1976
24 lists a series of dates from January



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1 through October where gallonage was
2 picked up in a tanker wagon. So what
3 we end up with for 1976 is 580,000
4 gallons of quantifiable waste
5 material that Jonas handled.

6 The same thing in '75.
7 It's a little more varied because we
8 are dealing with a broader variety of
9 waste materials, and, in most
10 instances, we have gallons
11 represented. Then we come up with a
12 1975 total of 81,000 gallons and
13 811,000 pounds.

14 Q. And are the gallons and
15 pounds separate entries or are the
16 gallons converted to pounds?

17 A. We usually only put in the
18 tables what was actually reported.

19 Q. So I guess my question is,
20 in 1975 are you saying that there is
21 an actual amount of 81,100 gallons
22 and an additional 811,190 pounds of
23 waste, or are they the same thing?

24 A. They are essentially the

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1 same thing. There are one or two
2 entries where, for example, ferric
3 chloride waste in 1975, it was
4 reported as gallons, it was not
5 converted to pounds, so we are
6 dealing with one or two places --
7 probably only one where we didn't
8 have it in both measurements.

9 Q. And can you describe to me
10 how you extrapolated with respect to
11 National Rolling Mills?

12 A. Sure.

13 Q. Go through the process.

14 A. Let's go to -- if you go to
15 Page 3-9 of my expert report, the
16 second paragraph, "It is possible,
17 however, based on available
18 documentation of actual amounts
19 hauled during 1975 and 1976 to
20 calculate a minimum extrapolated
21 annual volume of waste acid generated
22 by National Rolling Mills.

23 "As summarized in table
24 Roman Numeral II, an average result



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1 of 452,200 gallons of spent acid
2 wastes estimated to have been
3 generated per year. Again, that
4 figure is believed to represent a
5 minimum amount for the time period as
6 it does not include haulers other
7 than Jonas in its basis and it is
8 likely that the available
9 documentation is incomplete for the
10 two years of record, 1975 and '76."

11 "Utilizing the available
12 data set and the same extrapolation
13 assumptions," what we did we had two
14 years, we came up with an average for
15 that two years, if you extrapolate
16 that for an eight-year period you
17 come up with the 1,959,533 gallons of
18 waste acid.

19 Q. And how did you
20 calculate --

21 A. And that's actually
22 incorrect. It's from 1970 to 1974,
23 because this particular entity has
24 two parts, as you know.



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1 Q. How did you calculate the
2 452,200 average, because I, for some
3 reason, couldn't figure it out.

4 A. Okay.

5 Q. I have a calculator if you
6 need that.

7 A. Okay. All right, if you
8 look at Roman II, Table 2, what we
9 have is a complete year in 1976 of
10 580,000 gallons based on the Jonas
11 ledger, and then based on Jonas
12 invoices and NRM shipping documents
13 we have a three-month record in 1975
14 for waste spent acid and ferric
15 chloride of 81,100 gallons.

16 So if you take the total
17 actual 661,100 and you take the
18 estimated annual waste volume, since
19 the 81,100 was three months, if you
20 do four times 81,100, I believe you
21 come up with 3.44.

22 You then have a 1975
23 estimated annual volume and a 1976
24 actual volume, and if you do the



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1 average of those two, I believe you
2 come up with 452,200.

3 Q. Okay. So you extrapolated
4 within 1975 itself?

5 A. That's exactly right.

6 Q. Isn't there actually four
7 months of records for 1975?

8 A. I don't believe so.

9 Q. If you look at Table 2a, I
10 think there's a reference to, I
11 thought there was, May, July, August,
12 and then there's a reference to
13 September and then three months
14 afterwards. So did you just -- you
15 didn't include the September?

16 In other words, some of
17 these are undated, they just say
18 1975, how did you know what months --
19 or did you attribute those undated
20 periods without a month to any
21 particular --

22 A. It only occurs in one
23 instance with 4,500 gallons, and I
24 would have to do the math over again



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1 to see if we just took that 4,500
2 gallons out or whether we assumed it
3 was part of the three-month total.
4 In the grand scheme of things it's
5 not going to make really any
6 substantive difference.

7 Q. And the reference that just
8 refers to 1975 you attributed those
9 to one of May, July, August?

10 A. May, July, August, that's
11 correct. We said we had three months
12 and those were the three months we
13 were given.

14 Q. But there might actually be
15 more months than that. These records
16 may actually account for more months
17 than May, July, and August, correct?

18 A. I'm not sure I understand
19 how that could be, but, you know, I
20 suppose it's possible.

21 Q. Well, some of them aren't
22 dated, is what I'm saying, some of
23 them don't have a month?

24 A. Only the ferric chloride.



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1 That's true towards the end there
2 were three, that's right. And,
3 actually, there was another one
4 somewhere; we had a question mark
5 because we couldn't read it. Where
6 was that? Okay, the spent acid,
7 question mark 20, 1975. So we are
8 not sure about that month, either.

9 But we did make the
10 assumption that this represents a
11 three-month period of time. If you
12 wanted to argue that well, maybe you
13 don't know that with absolute
14 certainty, I wouldn't disagree with
15 you, but it was our best effort at
16 trying to approximate or understand
17 the limited data we were given.

18 Q. And would the extrapolation
19 that you performed or would the
20 analysis be equally applicable to the
21 period after 1974?

22 A. I'm not here to opine about
23 after 1974.

24 Q. With respect to this



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1 National Rolling Mills?

2 A. Right.

3 Q. And, again, for National
4 Rolling Mills, what specifically was
5 the basis for your extrapolating
6 throughout the entire period 1969 to
7 1977?

8 A. First of all, I didn't
9 extrapolate from '69 to '77.

10 Q. I'm sorry, it's a typo then
11 on Page 3-8 when you say National
12 Rolling Mills generated from 1969 to
13 1977 and then there's another
14 section. So just to be clear, it
15 only refers from 1969 to 1974,
16 correct?

17 A. That was -- yes. Yes. I
18 would like to see where the typo is,
19 though, if you can direct me, what
20 page are you on.

21 Q. The section is titled --

22 A. What page.

23 Q. Sorry. Section 3.2.2, and
24 the section is entitled Waste



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1 Generated 1969 to 1977.

2 A. Right.

3 Q. And then there are some
4 other parts where you speak about the
5 waste period being '69 to '77?

6 A. Well, you know, we did look
7 at records, I mean, there are records
8 that exist beyond the period of
9 interest that we have for this
10 report.

11 Q. Meaning '70 to '74?

12 A. Right.

13 Q. So getting back to the
14 question, then, what is the specific
15 basis for your extrapolating with
16 respect to National Rolling Mills?

17 A. It is taking the actual
18 Jonas ledger data for 1976, three
19 months of documentation for wastes
20 generated in 1975, doing an
21 extrapolation from three months of
22 '75 to the entire year 1975, and then
23 taking the estimated annual 1975 and
24 the best we could get actual 1976 and



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1 coming up with an average.

2 Q. And you felt that you were
3 able to extrapolate because the
4 operations -- I mean, what's the
5 basis, why did you think you were
6 able to extrapolate throughout the
7 entire time period?

8 A. We did not have any
9 information. First of all, we only
10 extrapolated for the period of
11 interest for this particular -- this
12 is the one company that has two parts
13 to it. So we only extrapolated for a
14 particular part of the period of
15 interest.

16 Q. Okay.

17 A. That being said, we were
18 not given any information that would
19 suggest that manufacturing processes
20 substantively changed during that
21 period of time. So what we had as
22 the limited factual information we
23 felt comfortable extrapolating over
24 the period of interest for this



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1 particular party.

2 Q. So is it correct then, if I
3 could just summarize then, that you
4 used records from 1976?

5 A. Yes, and '75.

6 Q. 1975 and '76 to show what
7 amount of waste was generated by
8 National Rolling Mills from 1970 to
9 1974 because you didn't have any
10 evidence to suggest that the
11 operations changed within that time
12 period; is that correct?

13 A. That is correct.

14 Q. Can you turn to Page 3-10
15 of your report, Ford.

16 A. Sure. Just give me a
17 second to do some more housekeeping.

18 Q. Uh-huh.

19 A. Okay.

20 Q. Why is it that you were not
21 able to extrapolate with respect to
22 Ford but you were able to for
23 National Rolling Mills and American
24 Cyanamid?



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1 A. We felt that -- in fact I
2 think we state this right in the
3 expert report, Page 3-10, Section
4 3.3.2.

5 What we had was a very
6 limited amount of evidentiary
7 material for one site, Watson town,
8 and they were drums. We totaled up
9 what was provided to us for those two
10 years and came up with 708 55-gallon
11 drums.

12 We decided that, since the
13 information was so sketchy, we could
14 not do an extrapolation and that 708
15 number of 55-gallon drums was simply
16 the minimum amount of wastes,
17 extrapolation with this limited data
18 set.

19 We did not have, for
20 example, as we did in the prior, a
21 continue -- a year of good continuous
22 record and then, secondarily, the
23 three months in 1975.

24 We had here one facility of



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1 several that are mentioned as
2 possibly generating wastes, and we
3 only had 55-gallon drums, and we were
4 not comfortable making any -- we did
5 not have enough understanding of how
6 their manufacturing process worked to
7 be comfortable that this represented
8 accurately wastes generated for any
9 particular time frame.

10 So to be appropriately
11 conservative, scientifically we
12 decided that we would simply take the
13 number as it was represented to us
14 and say that we considered it a
15 minimum total amount of waste
16 generated.

17 Q. Are the documents that you
18 do have with respect to Ford's waste,
19 are they all in any particular year?
20 I believe they are in 1973.

21 A. '72 and '73. If you look
22 at Table Roman Numeral III, that's
23 probably the best -- it's essentially
24 a replication of Table 3 in the



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DEPOSITION OF JOSEPH J. HOCHREITTER, JR., 2/27/07

1 appendix. But you have a few dates
2 in 1972 and then several dates in
3 1973, but, again, it's not a full
4 year for either year.

5 Q. So why didn't you
6 extrapolate, then, for the rest of
7 1973 like you did in the other cases?

8 A. Because we felt that this
9 was a spottier record and a less
10 complete record.

11 Q. In what way?

12 MS. WRIGHT: Objection.

13 THE WITNESS: My
14 recollection is that this was based
15 on invoices, purchase orders.

16 It's a little different
17 type of information than you would
18 get if you actually had a waste
19 ticket that shows I actually picked
20 something up, or you reported in a
21 104(e) that this is the amount of
22 material that I actually created,
23 waste that I generated. That played
24 into it.



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1 Just because you issue a
2 purchase order, for example, doesn't
3 mean that it's actually fulfilled.
4 And it was a spotty record. I don't
5 have what I would consider to be a
6 full year.

7 You know, you have February
8 12th, March 28th, a week in the
9 middle of April, the following week,
10 the first week of May and then
11 October, the end of October.

12 That, to me, is just, it's
13 too scattered and it's a professional
14 judgment. There is nothing
15 quantitative that I will be able to
16 tell you to say, Oh, I used this
17 formula and this is how we decided
18 that we couldn't extrapolate. It was
19 my professional judgment that we
20 could not extrapolate this.

21 BY MS. TROJECKI:

22 Q. Okay, can you turn to Page
23 311, Standard Press Steel.

24 A. Are we done with 4?



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1 Q. Possibly.

2 A. Because I'm going to do
3 housekeeping again.

4 Q. Okay, keep yourself
5 organized.

6 Is the analysis the same
7 with respect to SPS that the
8 information that you put in your
9 report regarding the manufacturing
10 and waste generation and handling was
11 all taken from documents in the
12 repository and that you did no
13 independent analysis to determine
14 what the manufacturing operations
15 were at SPS or what the wastes
16 generated were?

17 A. Yes, with the previous
18 qualification, that I don't know that
19 all of the material that was provided
20 to me came from the repository.

21 Q. But it is certainly
22 elicited in your report under Section
23 6?

24 A. Yes.



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1 Q. Incidentally, was all the
2 documentation that you reviewed
3 provided to you by defense counsel?

4 A. I know I should understand
5 that question, but could you repeat
6 it?

7 Q. Was all the documents that
8 you reviewed, when you say they are
9 all listed in Section 6 of your
10 report, were they all given to you by
11 defense counsel? Did you go on the
12 Internet and research anything
13 yourself and get documents?

14 A. We did look at, not the
15 individual companies, but we did some
16 research on the Boarhead Farms site
17 itself on the Internet.

18 Q. Anything else other than
19 that?

20 A. No.

21 Q. Can you walk me through the
22 quantification of wastes for SPS and
23 how you calculated monthly or yearly
24 averages and how you extrapolated?



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1 A. Okay.

2 Q. Let's go through the table
3 in your report regarding SPS.

4 A. Well, we always start with
5 table -- the A table, so Table 4a we
6 had a relatively large body of data
7 to work with here.

8 We had one facility, the
9 Jenkintown facility. We had waste
10 categories that we sorted different
11 wastes into, as you can see, acetone,
12 chromic acid, cyanide degreasers,
13 what we call mix wastes, nickel and
14 other.

15 And the period of time for
16 these records, in most instances, is
17 known. There's at least one instance
18 here, I thought there was two,
19 there's actually three, where dates
20 were illegible. The last cyanide
21 entry, for example, we know the month
22 but not the day or year.

23 For the last of the mixed
24 wastes we knew the year but we didn't



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1 know the month or the day, actually
2 for the last three of the mixed
3 wastes.

4 So what we did was we had
5 reporting based on a number of
6 55-gallon drums, and we assumed in
7 this instance that a 55-gallon drum
8 was full to 55 gallons, so we took
9 that 55-gallon drum quantity and
10 converted it to gallons.

11 And for each of the
12 categories we came up with a total,
13 and then for the total number of
14 drums and total gallons for all
15 documented wastes generated by SPS
16 and disposed with either Jonas or
17 DeRewal, we came up with 2,356 drums
18 or 134,080 gallons. So that's the
19 evidentiary material that we were
20 provided.

21 Q. What is that last number
22 that you just read, the two hundred
23 and --

24 A. 2,300 -- it's at the bottom



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1 of Page 4a, Table 2 or 3.

2 Q. Okay. 2,356 drums?

3 A. Drums. Which converts
4 calculated to 134,080 gallons.

5 Q. Okay.

6 A. So then you move to Table
7 4b. You have a 1973 monthly average
8 for acetone.

9 Q. And how did you calculate
10 that monthly average?

11 A. Let's see. What we did was
12 that was considered representative of
13 one month in 1973. So we had four
14 drums for the month of June. So if
15 you extrapolate that to an annual
16 basis, it's four times 12 or 48, and
17 then if you extrapolate that --

18 Q. It's like exponential
19 growth?

20 A. It's not exponential, but
21 it's multiplicative growth. Then we
22 come up with the number of drums with
23 the calculated estimate of the
24 gallonage.



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1 And, essentially, the same
2 thing was done -- now with acetone
3 there was a limited amount of
4 information that we had. We had more
5 information on the other categories,
6 chromic acid, cyanide waste, the
7 mixed wastes, and other wastes, but
8 we basically followed that same
9 model.

10 Q. So I guess one of my
11 questions was related to the acetone
12 in general, and what is the basis for
13 your extrapolating -- in other words,
14 you have two records from 1973 that
15 say that four drums were picked up.

16 A. Right.

17 Q. So from that information,
18 how did you know that -- you know,
19 not considering any other documents
20 about the frequency of how acetone
21 was generated, that you can
22 extrapolate that amount for eight
23 years?

24 A. It's a fair question.



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1 Let's say, just hypothetically, the
2 only wastes that were generated for
3 this particular site was acetone, and
4 we only had that limited amount, we
5 would not have done any
6 extrapolation.

7 We did extrapolation, I
8 think appropriately, for chronic
9 acid, cyanide wastes; we had enough
10 information for the degreaser mixed
11 wastes, the other categories of
12 wastes. And if we were doing the
13 extrapolations for those, I was
14 comfortable going ahead and doing the
15 extrapolation for acetone and nickel.

16 When you look at the eight-
17 year extrapolated totals, if you were
18 to remove nickel and acetone and say,
19 Well, I don't think that was
20 appropriate, we shouldn't have done
21 those, it wouldn't have made a
22 significant difference in the bottom
23 line.

24 Q. Did you conclude that any



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